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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,185	04/13/2004	Valentin Oprescu-Surcobe	CE11125R	3710

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EXAMINER	
CAI, WAYNE HUU	

ART UNIT	PAPER NUMBER
2681	

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/823,185	OPRESCU-SURCOBE ET AL.	
	Examiner	Art Unit	
	Wayne Cai	2681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 February 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,5-9,12-14,17 and 27-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,5-9,12-14,17 and 27-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *04/13/2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to Request for Continued Examination (RCE) dated February 21, 2006.

Response to Arguments

1. Applicant's arguments filed have been fully considered but they are not persuasive.

The Examiner previously argued in Office Action dated 11/21/2005 that "**do not explicitly specify a presence state of the MS or a presence state change by the MS**" is vague in meaning, one skilled in the art would expressly conceptualizes that it might specify, or it might not; and if it might, then it could be anything since it is not explicitly specified. In response to that Office Action, the Applicant agrees with the Examiner that the phrase "do not explicitly specify" was vague and removes the word "explicitly" to make it clearer.

The Examiner would like to suggest the Applicant to amend or further define the claims with narrower or exacting language, specifically, the meaning of "presence state". "Presence state" could be interpreted as "on" or "off" state. One skilled in the art would also conceptualize "presence state" as "here" or "not here". Furthermore, the Applicant even sets an example in the specification on page 6, lines 16-27 that "presence state" indicates the MS 201 is present or non-present based on the presence state of the powering up or down (i.e., on or off). Since the Applicant only sets an example in the specification; therefore, one skilled in the art would not limit to only that

example. The cited reference ("Magee"), however, on the other hand defines "presence state" as a location (Note: the Applicant also agrees with this interpretation, see pages 9-10 of current Remarks.) Magee teaches that when the mobile station enters a specific location, the network system detects the **presence state** of the MS (i.e., determining the location of the MS, whether the MS is present at specific location or the MS is leaving (i.e., not present) at the specific location.)

Since the Applicant does not specify what "presence state" means in the claim language, the Examiner is allowed to give the broadest reasonable interpretation. Hence, even the cited reference does specify the presence state, but the presence state is the location (i.e., here or not here). Therefore, it is different from the "presence state" as indicated in the specification of the present application, in which it means the "presence state" is powering on or off.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Magee on one hand teaches or discloses a method for authorizing location services.. Specifically Magee describes a method for detecting the location of mobile device in order to provide desired or requested information based on the presence state using 2.5G and

3G mobile cellular systems. On the other hand, Chen teaches a method and apparatus for delivering information in short data bursts. Thus, one skilled in the art would conceptualize and properly combine these two references to arrive at the present invention because the combination of references teaches how information could be deliver at the particular presence state detection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 5-6, and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Magee et al. (hereinafter "Magee") (US 2004/0198379 A1).

Regarding claim 1, Magee discloses a method for enabling wireless presence-based services comprising:

- monitoring by a wireless communications network, messaging and messaging responses of a mobile station (MS), wherein the messaging and the messaging responses do not specify a presence state of the MS or a presence state change by the MS (figure 2, boxes 110 and 112);

- inferring, by the wireless communications network, a change in the presence state of the MS based upon the monitoring (paragraph 0014);
- communicating, by the wireless communications network, the state change to a presence server (paragraph 0014).

Regarding claim 5, Magee discloses the method of claim 1 as described above. Magee further discloses, wherein inferring comprises:

inferring the MS presence state has changed when the presence state of the MS indicates that the MS is present and messaging is detected that indicates MS activity from the group consisting of powering down, deregistering, entering an unavailable mode, handing off outside the wireless communication network, and involved in other communication (paragraph 0014).

Regarding claim 6, it is inherent that the method of inferring comprises: inferring the MS presence state has changed when the presence state of the MS indicates that the MS is non-present and messaging is detected that indicates MS activity from the group consisting of powering up, registering, exiting an unavailable mode, handing off into the wireless communication network, and performing other communication because of the reasons rejected in claim 5.

Regarding claim 28, Magee discloses a wireless communications network comprising:

- wireless transceiver equipment adapted to receive messaging and messaging responses of a mobile station (MS) (figure 1, items 20 & 30);

- a wireless presence proxy, communicatively coupled to the wireless transceiver equipment (figure 1, item 50),
- adapted to monitor the messaging and the messaging responses of the MS, wherein the messaging and the messaging responses do not specify a presence state of the MS or a presence state change by the MS (figure 2, boxes 110 & 112),
- adapted to infer a change in the presence state of the MS based upon the monitoring (figure 2, box 112),
- adapted to communicate the state change to a presence server (paragraph 0009).

4. Claims 34-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen et al. (hereinafter "Chen") (US 2003/0157945 A1).

Regarding claim 34, Chen discloses a method comprising:

- receiving, by a base station (BS) from network equipment, an A9-Short Data Delivery message that indicates a signaling location within which to signal a mobile station (MS);
- signaling by the BS to the MS with a Short Data Burst in the signaling location indicated;
- sending by the BS an A9-Short Data Ack message to the network equipment indicating whether a response from the MS was received.

Regarding claim 35, Chen discloses the method of claim 34 as described above. Chen further discloses wherein sending by the BS an A9-Short Data Ack message to the network equipment indicating whether a response from the MS was received comprises sending by the BS the A9-Short Data Ack message to the network equipment indicating that a response from the MS was received in response to receiving by the BS a layer 2 acknowledgment from the MS in response to the signaling by the BS.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 2, 7-9, 12-14, 17, 27, and 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magee in view of Chen et al. (hereinafter "Chen") (US 2003/0157945 A1).

Regarding claim 2, Magee discloses the method of claim 1 as described above. Magee, however, fails to disclose the messaging responses comprise responses from the group consisting of a page response, a shod data burst (SDB) acknowledgment, a status response message, a short message service (SMS) acknowledgment, and a layer 2 acknowledgment.

In a similar endeavor, Chen discloses a method and apparatus for delivering information to a dormant target mobile. Chen further discloses, wherein the messaging responses comprise responses from the group consisting of a page response, a shod data burst (SDB) acknowledgment, a status response message, a short message service (SMS) acknowledgment, and a layer 2 acknowledgment (figures 4 & 5, and its descriptions).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the messaging responses in order to acknowledge whether or not the device is still in communication.

Regarding claim 7, Magee discloses the method of claim 1 as described above. Magee, however, fails to disclose signaling, by the wireless communications network, the MS with messaging to which the MS is required to respond. Chen discloses, further comprising:

- signaling, by the wireless communications network, the MS with messaging to which the MS is required to respond (paragraphs 0051 & 0052, and figure 4, item 414 or 422).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to signal by the wireless communication network in order to communicate with the MS.

Regarding claim 8, Magee and Chen disclose the method of claim 7 as described above. Chen further discloses, wherein messaging to which the MS is required to respond comprises messaging from the group consisting of a page, a short

data burst (SDB) message, a status request message, and a short message service (SMS) message (figures 4 & 5, and its descriptions).

Regarding claims 9 and 33, Magee and Chen disclose the method of claim 7 as described above. Chen further discloses:

- wherein monitoring comprises maintaining last-known-location information for the MS based on the messaging and the messaging responses (paragraph 0064),
- wherein signaling the MS comprises signaling the MS in a group of at least one cell based on the last-known-location information for the MS (paragraph 0064).

Regarding claim 12, Magee and Chen disclose the method of claim 7 as described above. Chen further discloses, wherein monitoring comprises receiving, by the wireless communications network, a messaging response in response to the signaling and wherein the method further comprises:

- inferring, by the wireless communications network, no change in a presence state of the MS based upon the monitoring, confirming, by the wireless communications network, the presence state to a presence server (paragraph 0064).

Regarding claims 13, 14, and 32, Magee and Chen disclose the method of claim 7 as described above. Chen further discloses:

- wherein monitoring passed after signaling the MS in which no response to the signaling has been received (paragraph 0064),

- wherein the no response within the period of time is a messaging response (paragraph 0064),
- wherein inferring comprises inferring a change in the presence state of the MS based upon the messaging response when the presence state of the MS indicates that the MS is present (paragraph 0064).

Regarding claim 17, Magee and Chen disclose the method of claim 7 as described above. Chen further discloses:

- wherein the wireless communications network comprises a control function and a base station (BS) (figure 5, boxes "BSC" and "MSC/VLR"),
- wherein the control function sends a signaling request message to the BS (figure 5, "Paging Request"),
- wherein signaling the MS comprises signaling by the BS in response to the signaling request message (figure 5, "Page Response").

Regarding claim 27, since the examiner rejects claim 1 because of the reasons above. It is also obvious to one skilled in the art that that the control function communicates and infers a change in the presence state of the MS based upon monitoring.

Regarding claim 29, Magee discloses the wireless communications network of claim 28 as described above. Magee, however, fails to disclose the presence server comprises a presence server from the group consisting of an instant messaging (IM) server and a push-to-talk (PTT) server.

In a similar endeavor, Chen discloses a method and apparatus for delivering information to a dormant target mobile. Chen further discloses, wherein the presence server comprises a presence server from the group consisting of an instant messaging (IM) server and a push-to-talk (PTT) server (paragraphs 0028-0032).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the presence server to communicate with other devices.

Regarding claim 30, Magee discloses the wireless communications network of claim 28 as described above. Magee, however, fails to disclose the messaging responses comprise responses from the group consisting of a page response, a short data burst (SDB) acknowledgment, a status response message, a short message service (SMS) acknowledgment, and a layer 2 acknowledgment. Chen discloses, wherein the messaging responses comprise responses from the group consisting of a page response, a short data burst (SDB) acknowledgment, a status response message, a short message service (SMS) acknowledgment, and a layer 2 acknowledgment (figure 4 and its descriptions).

Regarding claim 31, Magee discloses the wireless communications network of claim 28 as described above. Magee, however, fails to disclose the wireless presence proxy is further adapted to signal via the wireless transceiver equipment the MS with messaging to which the MS is required to respond. Chen discloses, wherein the wireless presence proxy is further adapted to signal via the wireless transceiver equipment the MS with messaging to which the MS is required to respond (paragraphs 0051-0052).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the wireless presence proxy that is coupled with other devices to provide authorization for location based services.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne Cai whose telephone number is (571) 272-7798. The examiner can normally be reached on Monday-Friday; 9:00-6:00; alternating Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wayne Cai
Examiner
Art Unit 2681

JOSEPH FEILD
SUPERVISORY PATENT EXAMINER